

Van W. Northern
NORTHERN LEGAL, P.C.
3545 S. Georgia Street
Amarillo, Texas 79109
Telephone: (806) 374-2266
Facsimile: (806) 374-9535
northernlegalpc@gmail.com

and

Joseph H. Mattingly III (Admitted *Pro Hac Vice*)
JOSEPH H. MATTINGLY III, PLLC
P.O. Box 678 – 104 West Main Street
Lebanon, Kentucky 40033
Telephone: (270) 692-1718
Facsimile: (270) 692-1249
Email: joe@mattinglylawoffices.com

Attorneys for Defendants, Acey Livestock, LLC; Michael Acey;
Barrett's Livestock, Inc.; and and Don Ralph Barrett

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

IN RE:

**McCLAIN FEED YARD, INC.,
McCLAIN FARMS, INC., and
7M CATTLE FEEDERS, INC.,**

Debtors.

Chapter 7

CASE NO.: 23-20084-rlj
Jointly Administered

RABO AGRIFINANCE LLC,

Plaintiff,

ADV. PROC. NO: 23-02005-rlj

Honorable Robert L. Jones

vs.

ACEY LIVESTOCK, LLC, *et al.*,

Defendants

MOTION FOR PARTIAL SUMMARY JUDGMENT BY DEFENDANTS, ACEY LIVESTOCK, LLC; MICHAEL ACEY; BARRETT'S LIVESTOCK, INC.; AND DON RALPH BARRETT, ON FIRST PHASE ISSUES

Come the Defendants, Acey Livestock, LLC, and Michael Acey (hereinafter “Avey”); and Barrett’s Livestock, Inc., and Don Ralph Barrett (hereinafter “Barrett”), by counsel, and pursuant to F.R.Civ.P. 56; F.R.Bankr.P. 7056; Local Rule 7.1 of the United States District Court for the Northern District of Texas and Local Rules 7007-1, 7007-2, 7007-3 and 7056-1 of the United States Bankruptcy Court for the Northern District of Texas, file this as their Motion for Partial Summary Judgment as to the “First Phase Issues” described in this Court’s Alternative Scheduling Order entered July 3, 2024 (DE #178).

SUMMARY

This Adversary Proceeding was initiated by Rabo AgriFinance LLC (“RAF”) to address the dispute between RAF, the Defendants and the Trustee concerning certain claims to livestock sales proceeds made by the Defendants to the United States Department of Agriculture (“USDA”) pursuant to 7 U.S.C. §217b (the “Dealer Trust Statute”). Although the livestock sales proceeds are currently under the custody and control of the Trustee, the Defendants contend that under the Dealer Trust Statute, the livestock sales proceeds are imposed with a statutory trust for the benefit of Acey and Barrett, and those of the Defendants who are “unpaid cash sellers of such livestock.” Thus, Acey and Barrett argue that the livestock proceeds in the custody and control of the Trustee are not assets of the bankruptcy estates of the respective debtors.

RAF contends that it holds a perfected security interest in all of the bankruptcy debtors’ livestock and the proceeds therefrom which pre-dated the adoption of the Dealer Trust Statute. Thus, RAF contends that the livestock sales proceeds held by the Trustee are not subject to the

Dealer Trust Statute, are not imposed with a statutory trust for the benefit of the Defendants, and should be paid to RAF pursuant to its perfected security interest.

Pursuant to Local Rule 7056-1(c)(2), Acey and Barrett state that each of the required matters for partial summary judgment are set forth in the accompanying brief. Acey and Barrett seek partial summary judgment from holding that RAF's claimed security interest in livestock sales proceeds does not extend or attach to the cattle sales proceeds in the custody and control of the Trustee which are subject to the Dealer Trust Statute and those livestock sales proceeds are not property of the bankruptcy estate of the various debtors.

A proposed Order granting this Motion is attached hereto.

DATED this 18th day of December, 2024.

Respectfully Submitted,

/s/ Joseph H. Mattingly III
JOSEPH H. MATTINGLY III
Attorney at Law
104 W. Main Street - P.O. Box 678
Lebanon, Kentucky 40033
(270) 692 – 1718
joe@mattinglylawoffices.com
(Admitted Pro Hac Vice)

and

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was electronically filed by the Clerk of the Court on this 18th day of December, 2024, by using the CM/ECF system which will serve a notice of electronic filing upon all interested parties registered. A copy thereof has also been served by electronic mail to the following:

UNDERWOOD LAW FIRM, P.C.
Thomas C. Riney
W. Heath Hendricks
500 South Taylor, Suite 1200, LB 233
Amarillo, Texas 79101
tom.riney@uwlaw.com
heath.hendrics@uwlaw.com

Michael R. Johnson
Matthew M. Cannon
RAY QUINNEY & NEBEKER P.C.
36 South State Street, Suite 1400
Salt Lake City, Utah 84111
mjohnson@rqn.com
mcannon@rqn.com

By: /s/ Joseph H. Mattingly III
JOSEPH H. MATTINGLY